

Georgia Department of Banking and Finance
Mortgage Division
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MORTGAGE DIVISION RULES

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Mortgage Division Rule 80-5-1-.02(4) was one of the rules amended by the Georgia Department of Banking and Finance ("Department") effective September 7, 2009. In making its revised rules available to the public as of that date, the Department inadvertently did not publish the amendments that were made to this particular rule.

*This omission was corrected on October 29, 2009.
The Department regrets any inconvenience that this error may have caused.*

***Effective
September 7, 2009***

FINANCIAL INSTITUTIONS

CHAPTER 80-5-1

SUPERVISION, EXAMINATION, REGISTRATION AND INVESTIGATION FEES. ADMINISTRATIVE LATE FEES

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80-5-1-.01 General.

(1) The annual appropriation for the Department of Banking and Finance as enacted by the General Assembly and signed into law, after adjustment for any differences between departmental revenue collections and departmental expenditures for the preceding fiscal year, shall be prorated among the financial institutions supervised or regulated by the Department. Where proration is based upon assets of the financial institutions, such assets shall be reported on June 30 of the Department's fiscal year immediately preceding the issuance of the assessment. Where no report was made on June 30, the most recent report available shall be used.

(2) That portion of the annual appropriation prorated to each financial institution shall be assessed against such institutions. Annual assessments are for the Department's fiscal year, July 1 through June 30. Such assessments shall be payable on or before January 31 of each year. Financial institutions subject to regulation by the Department for less than 12 months during the billing period shall pay a proportional amount of their normal assessment based upon the number of full months during which the Department was the financial institution's regulator.

(3) The Department has made available an Applications Manual at its Internet website, which manual includes the fees for each type of application, registration and notification.

(4) As of September 1, 1998, the Department has implemented policies which provide that certain qualifying institutions may expedite applications or submit shortened forms of applications. The fees for these expedited processes have been reduced accordingly. Criteria for banks to qualify is found at Rule 80-1-1-.10; for bank holding companies at Rule 80-6-1-.13.

Authority Ga. L. 1974, pp. 705, 732, 733, 921; Ga. L. 1976, Act 762.

80-5-1-.02 License, Registration and Supervision Fees for Check Cashers and Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates.

(1) Check sellers and money transmitters.

(a) The annual license fee is two thousand dollars (\$2,000).

(b) The annual renewal license fee is two thousand dollars (\$2,000) for check sellers and one thousand dollars (\$1,000) for money transmitters and shall be due and must be received by the Department on or before the first day of November of each year. Where the person or corporation engages in both the sale of checks and money transmission, the higher of the two fees shall be due and payable. Annual license renewal fees not received prior to November 1 will

be assessed a late fee of three hundred dollars (\$300) and cannot be assured of issuance or renewal prior to January 1.

(c) An additional non-refundable application investigation fee of two hundred fifty dollars (\$250) will be assessed.

(d) All check seller and money transmitter licenses shall expire on December 31 of each year.

(2) Check Cashers.

(a) The annual license fee is five hundred dollars (\$500).

(b) The annual renewal license fee is five hundred dollars (\$500).

(c) An initial investigation and supervision fee shall be seven hundred fifty dollars (\$750) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license period.

(d) Initial and renewal license fees shall also include an additional fifty dollars (\$50) for the second and each additional location, plus a thirty dollars (\$30) processing fee for each set of fingerprint cards required to be submitted with the application.

(e) Annual renewal license fees shall be due and must be received by the Department on or before the first day of August of each year. Annual renewal license fees not received prior to the first day of August of each year will be assessed a late fee of three hundred dollars (\$300) and cannot be assured of renewal prior to October 1. Applicants may not operate a check cashing business without a current license.

(f) Check cashers desiring exemption pursuant to Rule 80-3-1-.02(4)(b) and designated as Registrants shall file an initial application and pay a registration fee of two hundred dollars (\$200) and an annual renewal application and fee of one hundred dollars (\$100) due and must be received by the Department on or before the first day of August of each year. Annual renewal fees not received prior to the first day of August of each year will be assessed a late fee of one hundred dollars (\$100) and cannot be assured of renewal prior to October 1.

(g) An initial investigation and supervision fee shall be three hundred dollars (\$300) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first registration period.

(h) All check cashers licenses and registrants shall expire on September 30 of each year.

(3) Registrants of representative offices, trust production offices, business production offices, and loan production offices shall file a registration statement, as prescribed by the Department, and shall pay a registration fee of one hundred fifty dollars (\$150) on or before the first day of January of each year. Such fee is intended to cover the costs of responding to questions or complaints from consumers with regard to these entities doing business in Georgia and is in lieu of registration under O.C.G.A. §16-14-15, as provided in O.C.G.A. §7-1-11. Registrants of international bank representative offices shall pay a registration fee of one thousand dollars (\$1,000). Each bank holding company supervised by or registered with the Department shall pay on or before January 31 of each year an annual registration fee of one thousand dollars (\$1,000). Each Georgia bank holding company or holding company that owns a Georgia bank must pay five hundred dollars (\$500) for each additional Georgia subsidiary corporation in those categories, provided, however, any registrant required to register and pay a fee by another paragraph of this chapter shall only be required to pay one fee which shall be the higher fee.

(4) Mortgage licensees and registrants.

(a) Lenders. The initial and renewal application and license fee for mortgage lenders shall be one thousand dollars (\$1,000). The initial one thousand dollars (\$1,000) fee covers the main office. Any branch offices included in the initial application shall be assessed a fee of three hundred fifty dollars (\$350) each. A fee of three hundred fifty dollars (\$350) will be assessed for each additional office not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted at the office. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees plus a twenty dollar (\$20) fee for each approved branch office located in Georgia, must be received prior to December 1 of each year or the applicant will be assessed a late fee of three hundred dollars (\$300). A renewal application and license fee not received prior to the December 1 renewal application deadline of each year cannot be assured of issuance or renewal

prior to January 1, at which time the license or registration will be considered to be expired. Applicants may not conduct a mortgage business without a current license or registration.

(b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be five hundred dollars (\$500). The initial five hundred dollar (\$500) fee covers the main office. Any branch offices located in Georgia shall be assessed a fee of three hundred fifty (\$350) each. Brokers include loan processors. Processors are defined in Rule 80-11-4-.07. Such a processor may have a separate main office and other branch offices where mortgage loan processing is done. The offices will be treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees must be received prior to December 1 of each year or the applicant will be assessed a late fee of three hundred dollars (\$300). A renewal application and license fee, plus a twenty dollar (\$20) fee for each approved branch office located in Georgia, that is not received prior to the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will be considered to be expired. Applicants may not conduct a mortgage business without a current license or registration.

(c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan originators shall be one hundred dollars (\$100), due prior to December 1 of each year. Subsequent renewal applications and registration fees must be received by the Department prior to December 1 of each year or the applicant will be assessed a late fee of one hundred dollars (\$100). A renewal application, acceptable to the Department, along with the correct fees not received by the Department prior to the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will be considered to be expired. Applicants may not conduct mortgage loan origination activity without a current license. The initial licensure application period shall be from at least January 4, 2010 to March 31, 2010, subject to change at the discretion of the Department.

(d) Lender Registrants. The initial and renewal application and registration fee for mortgage lenders required to register but not be licensed with the Department shall be one thousand dollars (\$1,000), due prior to December 1 of each year. Subsequent renewal applications and registration fees must be received prior to December 1 of each year or the applicant will be assessed a late fee of three hundred dollars (\$300). A renewal application and registration fee not received prior to the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will be considered to be expired. Applicants may not conduct a mortgage business without a current license or registration.

(e) Broker Registrants. The initial and renewal application and registration fee for mortgage brokers required to register but not be licensed with the Department shall be five hundred dollars (\$500), due prior to December 1 of each year. Subsequent renewal applications and registration fees must be received prior to December 1 of each year or the applicant will be assessed a late fee of three hundred dollars (\$300). A renewal application and registration fee not received prior to the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will be considered to be expired. Applicants may not conduct a mortgage business without a current license or registration.

(f) All license, investigation, registration, supervision and late fees must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, reapplication for a license or registration or any other approval from the Department.

(g) All late fees collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. §7-1-1018(e).

(h) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise called change of control) shall pay a nonrefundable investigation, application and processing fee of five hundred dollars (\$500).

(i) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred fifty dollar (\$350), as provided in O.C.G.A. §7-1-1006.

(j) The fee for initial application for approval by the Department for a school or education provider shall be five

hundred dollars (\$500). An application for approval will be on a form provided by the Department at its website. The fee is nonrefundable. The fee for annual renewal of such approval is two hundred fifty dollars (\$250).

(k) The fee for name permission application investigations shall be one hundred fifty dollars (\$150). The fee is non-refundable.

(5) The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.

Authority Ga. L. 1974, pp. 705, 732, 733, 921; Ga. L. 1976, Act 762, p. 168; 1990, p. 739; 1993, p. 543; O.C.G.A. §7-1-41; §7-1-61; §7-1-685; O.C.G.A. §7-1-701; O.C.G.A. §7-1-703; O.C.G.A. §7-1-716; O.C.G.A. §7-1-721; 7-1-1001.1; and 7-1-1005.

80-5-1-.03 Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank Subsidiaries of Banks or Holding Companies.

(1) Examinations. That portion of annual appropriations allocable to regular examination and supervision activities shall be assessed in accordance with the following scale for depository financial institutions:

(a)

If the amount of Total Assets is:		Assessment will be:		
Over	But Not Over	This Amount	Plus	Of Excess Over
0	1,700,000	0	0.001800	* 0
1,700,000	15,000,000	3,060	0.000230	1,700,000
15,000,000	85,000,000	6,119	0.000190	15,000,000
85,000,000	185,000,000	19,419	0.000100	85,000,000
185,000,000	915,000,000	29,419	0.000095	185,000,000
915,000,000	1,825,000,000	98,769	0.000085	915,000,000
1,825,000,000	5,470,000,000	176,119	0.000072	1,825,000,000
5,470,000,000	18,240,000,000	438,559	0.000056	5,470,000,000
18,240,000,000	36,485,000,000	1,153,679	0.000050	18,240,000,000
36,485,000,000	45,000,000,000	2,065,929	0.000040	36,485,000,000
45,000,000,000	57,000,000,000	2,406,529	0.000035	45,000,000,000
57,000,000,000	92,000,000,000	2,826,529	0.000030	57,000,000,000
92,000,000,000	130,000,000,000	3,876,529	0.000025	92,000,000,000
130,000,000,000	180,000,000,000	4,826,529	0.000023	130,000,000,000
180,000,000,000		5,976,529	0.000020	180,000,000,000

* Minimum assessment is \$350.

Note: Total Assets and resultant assessment may be rounded to the nearest dollar.

(b) All other financial institutions, including credit card banks, bankers banks, central credit unions, and related corporations not covered elsewhere in this Section, licensees and registrants under Article 4 (Sale of Checks) and 4A (Check Cashers) of Chapter 1 of Title 7, O.C.G.A., licensees and registrants under Article 13 (Georgia Residential Mortgage Act), and trust departments shall pay an examination fee at the rate of \$65 per examiner-hour but not less than \$500 unless such examination is conducted in conjunction with another ongoing examination in which case there shall be no minimum charge. The above per hour charge shall be compensation for the work of department examiners as well as any necessary, qualified outside assistance. The \$500 minimum charge may be waived by the Commissioner or his/her designee when such charge clearly exceeds the hours spent on an examination. Check casher fees for examination shall be remitted to the state treasury net of any fees paid by the Department for examination by a third party.

(c) Notwithstanding the provisions of subsection (b) above, licensees under Article 13 shall pay the actual cost incurred by the Department in the conduct of an out of state examination, including personnel costs, transportation costs, meals, lodging and other incidental expenses, in addition to \$65 per examiner hour spent on the examination.

(d) If an examination or supervisory visit is conducted of any financial institution during the same calendar year in which a previous examination has already been conducted, the institution shall pay expenses, including personnel costs, transportation costs, meals, lodging and other incidental expenses, and an additional examination fee at the rate of \$65 per examiner-hour required for such examination.

(e) The Department may discount or surcharge all examination and supervision fees herein provided to assure that anticipated revenues of the Department will fund the annual appropriation by the General Assembly.

(f) The Department may also require reimbursement for direct expenses, such as transportation costs, meals, lodging, etc. associated with out-of-state examinations or supervisory visits for any regulated entity, including money services businesses.

(2) Banking applications:

(a) Applicants for new branch offices or relocations of financial institutions shall pay an investigation fee of \$1,250 for each application. Simple redesignations of existing bank locations require only prior notification in writing. Branch Offices established under the notice procedure shall pay a fee of \$500.

(b) Applicants for approval of new bank, trust company, state savings or mutual savings bank or savings and loan, or building and loan charters shall pay an investigation fee of \$20,000 for each application. Bank charter applications qualifying for expedited processing will be assessed an investigation fee of \$10,000. Applicants for approval of a new credit card bank or a special purpose bank shall pay an investigation fee of \$25,000. Prior to commencing business, successful applicants shall pay a supervisory and examination fee covering the preopening organizational supervision and initial operating supervision of the new institution in the amount of \$5,000.

(c) Applicants for approval for a company to become a bank holding company, other than for a de novo bank, may receive regular or expedited processing. Regular processing is \$3,500; expedited processing is \$2,500. Formation of a holding company simultaneously with formation of a de novo bank requires a regular processing fee of \$3,500, which, if applicable, is reduced by the fee for a new state charter.

(d) Applicants for a bank holding company to acquire five (5) percent or more but less than twenty-five (25) percent of the outstanding voting stock of financial institutions, or for review of a change of control shall pay an investigation fee of \$3,500 for each such application, provided, however, the Commissioner may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or in cases of:

(i) Interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities and where the resulting holding company pays an annual registration fee of \$1,000; or

(ii) Interstate transactions involving no Georgia state banks where the resulting holding company with branches or banks in Georgia pays an annual registration fee of \$1,000.

(e) Applicants for a bank holding company to acquire more than twenty-five (25) percent of the outstanding voting stock of financial institutions, shall pay an investigation fee of \$6,000. Expedited processing for these acquisitions is \$4,500. The fee for an intrastate and a covered interstate merger of banks or bank holding companies is \$4,500, reduced by a Department fee for a simultaneous acquisition if it has been paid. The Commissioner, however, may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or, in cases of:

(i) Interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities and where the resulting holding company pays an annual registration fee of \$1,000; or

(ii) Interstate transactions involving no Georgia state banks where the resulting holding company with branches or banks in Georgia pays an annual registration fee of \$1,000.

(f) Applicants for license to operate an international agency shall pay an investigation fee of \$5,000. In the event the application is denied, \$2,000 representing the applicant's initial license fee shall be refunded. International bank agencies and domestic international banking facilities shall pay an annual license or registration fee of \$2,000, on the first day of April of each year. Renewal licenses shall be issued for a twelve month period.

(g) Depository financial institutions, except credit card banks, bankers banks, and central credit unions shall pay an annual supervision fee as part of the examination fee prescribed in Rule 80-5-1-.03.

(h) All other financial institutions supervised by the Department who are not already covered by this chapter, except international agencies, shall pay an annual supervision fee of \$500, due on or before January 31 of each year.

(i) The investigation fee for conversion to a state bank is \$20,000.

(j) If a bank satisfies the banking factors set out in the Department's Statement of Policies, the fee to exercise a single trust power is \$250 and the processing is expedited to 7 days. A completed letter form application to exercise limited trust powers will be reviewed in 15 days; the fee is \$750. A bank that desires to exercise full trust powers files a regular application including a copy of the FDIC application. A complete application will be reviewed in 30 days; the fee is \$1,250. A new trust company, which must be affiliated with a Georgia bank, requires an investigation fee of \$20,000.

(k) Regular applications to establish or acquire a subsidiary of a bank shall require a fee of \$500. Banks qualified to file expedited applications according to the criteria in DBF Rule 80-1-1-.10 are not subject to a fee.

(3) General rules for fees; holding companies with subsidiaries in Georgia.

(a) Fifty (50) percent of fees payable under the provisions of subsections (a), (b), (c), (d), (e) and (i) of Section (2) of this Rule may be rebated to the applicant upon withdrawal of the application prior to the performance of any field investigation which might be required. Actual amounts rebated shall be at the discretion of the Department based upon the administrative time devoted to consultation with the applicant and processing of the application. Each bank holding company supervised by or registered with the Department shall pay on or before January 31 of each year an annual registration fee of \$1,000. Each Georgia bank holding company or a holding company that owns a Georgia bank shall pay on or before January 31 of each year an additional \$500 for each Georgia non-bank subsidiary corporation of the bank holding company, excluding subsidiaries assessed pursuant to Paragraph 80-5-1-.03(1)(a) and subsidiaries paying an annual license or registration fee pursuant to Paragraph 80-5-1-.02(4), as of June 30 preceding the due date of January 31.

(b) Applications covering more than one transaction (branch, acquisition, merger, etc.), which require the Department to separately analyze each application shall pay the applicable fee for each transaction.

(c) The annual assessment rates included in subparagraph (1)(a) above will normally be used in connection with any annual assessment of depository financial institutions having banking offices in more than one state including Georgia. The Commissioner, however, will have the discretion to deviate from the rates included in the assessment schedule and other rates and charges including application fees in order to facilitate or implement interstate efforts to regulate and supervise multi-state banks or for parity reasons.

Authority Ga. L. 1974, pp. 709, 732, 733; Ga. L. 1976, Act 762; 1990, p. 739; 1993, p. 543; O.C.G.A. §7-1-41; §7-1-61.

80-5-1-.04 Levy, Collection, Remittance and Refunds of Georgia Residential Mortgage Act Per Loan Fee.

(a) Each borrower who obtains a mortgage loan as defined in Article 13 shall pay to the department a per loan fee of \$6.50. The \$6.50 fee will be due if the loan is a residential mortgage loan as defined in the Georgia Residential Mortgage Act, and if a security deed, a modification of a security deed, or other form or modification of a security interest is recorded. A change to a security instrument made solely for the purpose of correcting a clerical error will not be subject to a \$6.50 fee. Any person who closes mortgage loans that are subject to regulation under Article 13, regardless of whether said person is required to be licensed or registered under Article 13, shall act as collecting agent

for payment to the department of said per loan fee for each mortgage loan closed by that person on and after January 1, 1994. A mortgage loan shall be deemed to have been closed by a person if such person is indicated as the secured party on the security deed or any other loan document that establishes a lien on the residential real estate taken as collateral for the mortgage loan.

(b) The fees payable under the provisions of subsection (a) shall be payable to the department by the collecting agent, who is the person responsible for remittance of such fees on a semiannual basis. More specifically, such fees for the period January 1 through June 30 of each year shall be remitted to the department no later than the first business day of September of each year and such fees for the period July 1 through December 31 of each year shall be remitted to the department no later than the first business day of March of each year. The department may mail a fee statement form to persons making residential mortgage loans in Georgia. Whether or not a form is received, a fee statement indicating the number of mortgage loans closed during the applicable reporting period by the person remitting the payment shall be enclosed with the payment. Such fee statement shall be in a format substantially similar to the following:

GEORGIA RESIDENTIAL MORTGAGE ACT
FEE STATEMENT
SEMIANNUAL STATEMENT OF PER LOAN FEES

1. Name of entity remitting the fees: _____
2. Mortgage Lender or Broker License or Registration Number (if applicable): _____
3. Bank or Credit Union FDIC or NCUA Number: _____
4. Fee Statement Period: (Please check all periods that apply.)

January 1 through June 30, 200__*.

July 1 through December 31, 200__*.

Number of Loans: _____

Number of Loans: _____

5. I hereby certify that no loans requiring a \$6.50 fee have been closed by the above named entity:

(Print Name and title)

(Signature)

6. Total Dollar Amount Enclosed: \$ _____ (6.50 x number of loans closed.)
(Total enclosed must equal \$6.50 multiplied by the number of loans indicated above.)

7. Name and telephone number of person to contact with questions concerning this form:

8. Name and signature of person completing this form: _____

(Print Name and title)

(Signature)

* Enter applicable year.

(c) Refunds of \$6.50 fees. A claim for refund of \$6.50 fees erroneously paid and/or collected may be made by the payer at any time within three years after the date the payment of the fee is due to the department. Each claim shall be filed in writing and shall include a summary statement of the grounds upon which the payer relies, including evidence of overpayment, copies of canceled checks and any other information requested by the department. Refund shall be made or denied within one year from the date of filing the claim. If payer disagrees with the decision of the

department, he or she may appeal to the Commissioner to review his or her claim. The Commissioner's decision is final, and may be appealed to Superior Court pursuant to Code Section 7-1-90.

Authority Ga. L. 1974, pp. 732, 733; Ga. L. 1988, p. 243; 1993, p. 543; O.C.G.A. §7-1-41; §7-1-61; '7-1-1012.

80-5-1-.05 Other Charges and Fees.

(1) The department may from time to time establish reasonable charges for copies of records and publications of the department consistent with the provisions of Code Section 50-18-71. Copies of records of the department available for public inspection shall be made by department personnel. Persons requesting copies of such records shall pay 25 cents per page of copy as provided in subsection (c) of Code Section 50-18-71 plus an additional charge of 25 cents per page copied as provided in subsection (d). In no event shall the aggregate charge be less than \$3. One copy of any department publication not available electronically may be provided without charge to financial institutions paying supervision fees pursuant to Rule 80-5-1-.02.

(2) Requests for non-consumer related letter rulings submitted by persons other than persons under the direct supervision of the department shall be accompanied by a fee of \$250.

(3) A charge of \$1,500 shall be paid by parties requesting public hearings before the department pursuant to Rule Chapter 80-1-1. In addition, where a hearing officer not regularly employed by the department conducts the hearing, the actual charge for the services of such person shall be paid.

(4) Persons requesting affidavits certifying to the authenticity of any documents or to the validity of any outstanding charter or license shall pay a fee of \$25 in addition to any copy charges.

(5) Each person required to submit fingerprint cards to the department for any reason, including but not limited to: initial application, change in control, addition of new officer or director or person managing the business, or expanded background check of an employee, shall submit to the department a money order or certified check for \$30 payable to the department, to cover two (2) sets of fingerprints for each individual background check.

Authority Ga. L. 1974, pp. 732, 733; Ga. L. 1988, p. 243; 1993, p. 543; O.C.G.A. §7-1-41; §7-1-61; §7-1-1004.

80-5-1-.06 Fees for Credit Unions.

(a) Applicants for approval by the department of addition of a single residential common bond group shall pay an investigation fee of \$1,000.00.

(b) Applicants for department approval of merger of two credit unions where neither is considered financially or otherwise unsafe or unsound shall pay an investigation fee of \$1,000.00.

(c) Applicants for department approval of conversion from a federal or out of state credit union to a state credit union shall pay an investigation fee of \$1,000.00

(d) The department may in its discretion waive or reduce a fee based on the circumstances of the application.

Authority Ga. L. §7-1-41; §7-1-61; §7-1-663.

80-5-1-.07 License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators.

(a) For purposes of this Article the Nationwide Mortgage Licensing System and Registry (NMLSR) is defined as a uniform multi-state administration of an automated licensing system for mortgage brokers and mortgage lenders. The department's participation in the NMLSR is authorized by O.C.G.A. §7-1-1003.5.

(b) All applications for new licenses or registrations must be made through NMLSR. Fees for new applications include an initial Department investigation fee and the appropriate application fee for the application type. Applications for new licenses and registrations which are approved between November 1 and December 31 in any year will not be required to file a renewal application for the next calendar year. All fees are non-refundable.

(c) All licenses and registrations issued pursuant to the Act shall expire on December 31 of each year, and an application for renewal shall be made annually between November 1 and December 31 each year. Subsequent renewal applications and/or license fees must be received prior to December 1 of each year or the applicant will be assessed a late fee as set forth in these rules by license or registration type. A renewal application and/or license fee not received prior to the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will be considered to be expired. Any license or registration which is not renewed prior to December 31 will require the applicant to file a reinstatement application in order to conduct mortgage business in the State after that date.

Authority O.C.G.A. §7-1-1003.5.

RESIDENTIAL MORTGAGE BROKERS AND LENDERS
CHAPTER 80-11-1
DISCLOSURE, ADVERTISING AND OTHER REQUIREMENTS

80-11-1-.01	Disclosure Requirements.	80-11-1-.03	Place of Business Requirements;
80-11-1-.02	Advertisement Requirements.	Definitions.	
		80-11-1-.04	Branch Managers.
		80-11-1-.05	Employees Background Checks; Covered Employees.

80-11-1-.01 Disclosure Requirements.

(1) Written disclosure required before acceptance of fees. Any person required to be licensed or registered under Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated ("Article 13") must make the following disclosures in writing to the applicant prior to accepting an application fee, property appraisal fee, credit report fee, or any other third-party fee from an applicant for a residential mortgage loan.

(a) The amount of the application fee, a good faith estimate of the credit report fee, the property appraisal fee and/or any other third-party fees;

(b) Whether all or any part of such fees or charges is refundable prior to settlement of the mortgage loan, and the terms and conditions for obtaining a refund if all or any part of the fees or charges is refundable;

(c) The specific services which will be provided or performed for the application fee;

(d) In cases where the fees are being accepted by a mortgage lender or mortgage broker that such lender or broker cannot guarantee approval of the loan application or acceptance into a particular loan program. Further, lender or broker may not use the terms "closing" or "settlement" to refer to a transaction unless the transaction meets the definition of settlement in paragraph (2) of this rule.

(2) For purposes of this Rule, the term "settlement" or "closing" means the process of executing legally binding documents regarding a lien on residential property and the disbursement of funds necessary to effect the transaction. Where a federally required right of rescission applies to a transaction, the settlement or closing date will be the date the binding documents are signed, not the disbursement date.

(3) Some or all of the disclosures required by paragraph (1) of this Rule may appear on forms used to comply with otherwise applicable state or federal laws.

(4) The disclosures required in paragraph (1) of this Rule shall be acknowledged in writing by the applicant and a

copy of the acknowledgment maintained by the lender or broker required to make the disclosure, and a copy of the acknowledgment shall be given to the applicant. In instances of mail applications, the disclosures required by paragraph (1) must be included in the mail application package with a request that a signed acknowledgment form be returned to the mortgage broker or lender required to make the disclosure. A copy of this request shall be kept by the mortgage broker or lender. In instances of applications taken by telephone, the disclosures required by paragraph (1) must be mailed or delivered to the applicant with a request that a signed acknowledgment form be returned to the mortgage broker or lender required to make the disclosure. A copy of this request shall be kept by the mortgage broker or lender.

(5) For purposes of paragraph (1) of this Rule, "application fee" means any fee advanced prior to settlement by the applicant to the mortgage broker or lender in connection with an application for a mortgage loan, including any charge for soliciting, processing, placing or negotiating a mortgage loan. The term does not include payments to be remitted to third party service providers, such as appraisal fees or fees for credit reports.

(6) Good Faith Estimate to be provided by broker. Every broker, including every home improvement dealer and manufactured home dealer required to be licensed or registered under Article 13 shall provide applicants for mortgage loans the good faith estimate disclosure as required below.

(a) Every broker shall disclose in writing to the applicant for a mortgage loan a good faith estimate, also required by federal law, of the costs the applicant can reasonably expect to pay in obtaining a mortgage loan, whether all or any part of these costs is refundable prior to settlement of the mortgage loan, and the terms and conditions under which all or any part of these costs is refundable. The good faith estimate of costs shall be mailed or delivered to the applicant within three business days after the application is received. If a mortgage broker acting as an exclusive agent of the lender receives the application, either the lender or the mortgage broker shall provide the good faith estimate. In the event that an application is received by a mortgage broker who is not an exclusive agent of the lender, the mortgage broker must provide a good faith estimate within three days of receiving a loan application based on his or her knowledge of the range of costs. An "exclusive agent" for the purposes of Article 13 shall mean a broker who represents only one lender and no others.

(b) The disclosures required in paragraph (6) of this Rule shall be acknowledged in writing by the applicant and a copy of the acknowledgment maintained by the broker, or lender if the broker is acting as an exclusive agent of the lender. A copy of such acknowledgment shall be given to the applicant. In instances of mail applications and applications taken by telephone or electronically, the broker, or lender if the broker is acting as an exclusive agent of the lender, shall deliver or mail to the applicant together with the required disclosures a request that a signed acknowledgment form be returned to the mortgage broker, or lender as appropriate. A copy of this request shall be kept by the mortgage broker or lender who delivers it.

(c) Some or all of the disclosures required in paragraph (6) of this Rule may appear on forms used to comply with otherwise applicable state or federal laws.

(7) Good Faith Estimate to be provided by Lender. Except as provided in subsection (d) of this Rule, every lender required to be licensed or registered under Article 13 shall provide applicants for mortgage loans the good faith estimate disclosure as required below.

(a) Every lender shall disclose in writing to the applicant for a mortgage loan a good faith estimate, also required by federal law, of the costs the applicant can reasonably expect to pay in obtaining a mortgage loan, whether all or any part of these costs is refundable prior to settlement of the mortgage loan, and the terms and conditions under which all or any part of these costs is refundable. The good faith estimate of costs shall be mailed or delivered to the applicant within three business days after the application is received.

(b) The disclosures required in paragraph 7 of this Rule shall be acknowledged in writing by the applicant, maintained by the lender required to make the disclosures, and a copy of such acknowledgment shall be given to the applicant. In instances of mail applications and applications taken by telephone or electronically, the lender shall deliver or mail to the applicant together with the required disclosures a request that a signed acknowledgment form be returned to the mortgage lender. A copy of this request shall be kept by the mortgage lender.

(c) Some or all of the disclosures required in paragraph (7) of this Rule may appear on forms used to comply with otherwise applicable state or federal laws.

(d) In cases where the broker provides a good faith estimate that includes the costs of the broker and the lender, the lender would not be required to issue a good faith estimate as dictated by paragraph (7) of this Rule, provided the broker's good faith estimate is an accurate estimate of the lender's costs.

(8) Foreclosure Disclosure.

(a) Every lender, and every broker who closes mortgage loans in the broker's own name with funds provided by others and which loans are assigned within 24 hours of the funding of the loan to the mortgage lender providing the funding of such loans (i.e. table funding), required to be licensed or registered under Article 13 shall disclose in writing to each applicant for a mortgage loan that failure to meet every condition of the mortgage loan may result in the loss of the applicant's property through foreclosure. The disclosure shall be made at or before the time of settlement. The disclosure shall include the following language in at least ten-point bold-faced type:

"O.C.G.A. Section 7-1-1014(3) requires that we inform you that if you fail to meet any condition or term of the documents that you sign in connection with obtaining a mortgage loan you may lose the property that serves as collateral for the mortgage loan through foreclosure."

(b) The applicant shall be required to sign the disclosure and the lender or broker, as applicable, shall keep a copy of the signed disclosure.

(c) This disclosure requirement may be satisfied by a substantially similar disclosure as required by federal law.

Authority Ga. L. 1974, p. 733; Ga. L. 1993, p. 543; O.C.G.A. §7-61; §7-1-261.

80-11-1-.02 Advertising Requirements.

Any advertisement of a mortgage loan that is subject to regulation under O.C.G.A. Title 7, Article 13 and that is made, published, disseminated or circulated in this state shall comply with the requirements set forth below.

(a) Advertisements for mortgage loans shall not be false, misleading, or deceptive.

(b) Advertisements for mortgage loans shall not indicate in any manner that the interest rates or charges for loans are in any way recommended, approved, set or established by the state or by any law of the state.

(c) All solicitations or advertisements, including business cards and websites, for mortgage loans disseminated in this state by persons required to be licensed or registered under O.C.G.A. Title 7, Article 13 shall contain the name, license number, valid unique Nationwide Mortgage Licensing System and Registry (NMLSR) identifier, and an office address of the licensee or registrant advertising the mortgage loan, which name, address, and license number shall conform with the name, license number, valid unique NMLSR identifier and office address on record with the Department of Banking and Finance.

(d) All advertisements disseminated in this state by persons required to be licensed under O.C.G.A. Title 7, Article 13 in any media, whether print or electronic, shall contain the words "Georgia Residential Mortgage Licensee" or, if an entity is licensed in more than one state, the licensee's advertisement may list Georgia as a state in which the licensee is licensed.

(e) All advertisements for mortgage loans shall comply with all applicable federal and state laws.

(f) For purposes of this Rule, "advertisement" means material used or intended to be used to induce the public to apply for a mortgage loan. Such term shall include any printed or published material, audio or visual material, website, or descriptive literature concerning a mortgage loan subject to regulation under O.C.G.A. Title 7, Article 13 whether disseminated by direct mail, newspaper, magazine, radio or television broadcast, electronic, billboard or similar display. The term advertisement shall not include promotional materials containing fifteen words or fewer relating to the mortgage business of the entity which material does not contain references to a specific rate or product, such as balloons, hats, pencils or pens, and calendars.

(g) Every mortgage broker or mortgage lender required to be licensed or registered shall maintain a record of samples of its advertisements (including commercial scripts of all radio and television broadcasts) for examination by the Department of Banking and Finance.

(h) An advertisement shall not include an individual's loan number, loan amount, or other publicly available information unless it is clearly and conspicuously stated in bold-faced type at the beginning of the advertisement that the person disseminating it is not authorized by, acting on behalf of, or otherwise affiliated with the individual's lender, which shall be identified by name. Such an advertisement shall also state that the loan information contained therein was not provided by the recipient's lender.

Authority Ga. L. 1974, p. 733; Ga. L. 1993, p. 543; O.C.G.A. §7-1-61; §7-1-1004.3; §7-1-1012; §7-1-1016.

80-11-1-.03 Place of Business Requirements; Definitions.

(1) Each licensee, if it has or is required to have a physical place of business in Georgia, shall provide to the department a complete listing of all such offices or locations.

(2) An applicant for a broker's license must have a physical place of business in this state if the broker's home state requires one.

(3) A "physical place of business" in this state shall mean an enclosed room or building where the broker alone, if it has no employees, otherwise where one or more supervised employees conduct a residential mortgage business.

(4) A location, including a personal residence, shall be considered a branch for purposes of the Georgia Residential Mortgage Act if any of the following conditions are met:

(a) The location address is printed on or contained in letterheads, business cards, announcements, advertisements, solicitations for business, flyers, brochures, or the like;

(b) Georgia consumers are received at the location or are directed to deliver any information by any means to the location;

(c) Loan files, applications (approved, denied, pending and pre-qualification) and any other books and records required by Georgia Residential Mortgage Act or department rules are located at the location;

(d) The location is used to meet the licensing standards in O.C.G.A. Section 7-1-1003.1 and Department Rule 80-11-1-.03; or

(e) The licensee directly or indirectly reimburses for rent, utility bills or other expenses incurred for use of a location as a branch.

(5) Notwithstanding Paragraph (4) of this rule, a location, including a personal residence, will not be deemed a branch and will be required to have its own license if:

(a) It is a franchise arrangement;

(b) It is separate entity that may be referred to as a "net branch," and it is an independent business or mortgage operation which is not under the direct control, management, supervision and responsibility of the licensee;

(c) The licensee is not the lessee or owner of the branch and the branch is not under the direct and daily ownership, control, management, and supervision of the licensee;

(d) All employees exempt from individual licensing, including the branch manager, do not meet the requirements for such exemption in Article 13 and the rules of the department;

(e) All assets and liabilities of the branch are not assets and liabilities of the licensee and income and expenses of the branch are not income and expenses of the licensee and are not properly accounted for in the financial records and tax returns of the licensee; or

(f) All practices, policies, and procedures, including but not limited to those relating to employment and operations, are not originated and established by the licensee and are not applied consistently to the main office and all branches.

(6) An unstaffed storage facility shall not constitute a branch.

(7) The “main office” is the location indicated on the application as the principal place of business, where the books and records are kept.

(8) The mailing address of a licensee or registrant may be different from the main office address but shall be the address where the department is authorized to send all correspondence, official notices and orders. The licensee or registrant is responsible for keeping the department informed of any changes in this mailing address.

(9) The “contact person for consumer complaints” referred to in Code Section 7-1-1006 shall be a person who is available and has authority to investigate and resolve questions and complaints from consumers which have come to the department for resolution. Each licensee must keep the department informed of the name and telephone number of the current contact person.

Authority O.C.G.A. §7-1-61; O.C.G.A. §7-1-1012.

80-11-1-.04 Branch Managers.

(1) A “branch manager” shall mean a person who supervises daily activities in Georgia of a licensee, whether at a main or branch location, and regardless of job title.

(2) No branch manager shall be permitted to manage a location in Georgia without being approved by the department. A branch manager may be put in place subject to departmental approval, but the department must receive a complete application for approval within 15 calendar days of the placement. No individual may serve as the branch manager of more than one location of a licensee unless the licensee can demonstrate that the proposed branch manager will be able to effectively manage these locations to ensure that they operate in compliance with state and federal law, and that the manager can adequately supervise the daily functions performed by the employees at the locations. In order to qualify for the employee exemption, an employee must be supervised on a daily basis by the licensee. Rule 80-11-4-.03. Considerations by the department in determining whether a branch manager may supervise more than one location will include: proximity of branches to each other, volume of business at each, experience level of proposed manager and plans to handle the supervision.

(3) The department shall conduct a background check, obtain a credit report, and require a financial statement and such other pertinent information as it may require to satisfy itself that the location will be operated by the branch manager responsibly and in compliance with the laws and rules of this state.

(4) The applicant must submit two sets of fingerprints, along with a money order or certified check payable to the department in the appropriate amount set by the department in order for the department to cause to be administered the expanded background check as required by O.C.G.A. § 7-1-1004 (k).

Authority O.C.G.A. §7-1-61; §7-1-1006; §7-1-1012.

80-11-1-.05 Employee Background Checks; Covered Employees.

(1) As required by O.C.G.A. §7-1-1004(k), applicants and licensees must complete background checks on all covered employees. Covered employees include those employees who physically work in the state of Georgia and who may enter, delete or verify any information on any mortgage loan application form or document. Employees of a

licensee or applicant who are not involved in the mortgage loan business are not covered employees. Background checks on all covered employees must be completed and found satisfactory by the applicant or licensee within ninety (90) days of the initial date of hire. Employers should submit background information to the proper law enforcement authorities promptly upon initial hire in order to meet the ninety (90) day requirement. A background check must be initiated for a person in the employ of a licensee or applicant within ten (10) days of the date of initial hire.

(2) The term “mortgage loan application form or document” shall mean any prospective borrower’s personal electronic or printed information and documents, including but not limited to bank statements, W-2 forms, income tax returns, employment records, and other personal financial information required to be submitted in the course of making an application for a mortgage loan. It would also include documents maintained and generated by the licensee in the course of the application and administration of the mortgage loan, including but not limited to electronic or printed/written information on the mortgagor and their loan, including personal and loan database information, payments and payment history information, past due reports and schedules, coupon books, information generated for tax purposes, including escrow information, and any other information generated which would include the financial and loan history of the mortgagor. Documents would also include computer displays of personal and mortgage loan information on an individual borrower or client which may be disseminated by the licensee’s personnel in the course of verifying information for customers and other business related inquiries.

(3) Applicant’s and licensee’s requests for background checks are handled by the Georgia Crime Information Center (GCIC) following their rules and regulations (see also O.C.G.A. §35-3-34). Background checks must be full GCIC checks following that agency’s rules and regulations and must not have any time period limitations or restrictions in the search criteria. Any fees charged by GCIC for processing background checks must be paid by the applicant or licensee. The background checks may be arranged for through a local law enforcement office, so long as the background check is done by GCIC.

(a) If the information from the background check is unclear or incomplete, appears to address or makes reference to a felony conviction, or indicates that the employee has a criminal record in any state other than Georgia (“multi-source offender”), the applicant or licensee must immediately submit two sets of fingerprints of the person, along with the applicable processing fee and any additional information the Department may require to complete an expanded background investigation. A money order or certified check in an amount as directed by the Department made payable to the Department shall be submitted with the cards in order to have the cards processed. Applicant or licensee shall discuss the Georgia Residential Mortgage Act’s legal requirements for employment with the subject employee.

(b) An employee may remain employed by the applicant or licensee pending results of a fingerprint follow up investigation if no felony convictions appear on the GCIC report. If the employee is found to have disqualifying conviction data according to O.C.G.A. §7-1-1004(h), or if the applicant or licensee knows that a disqualifying conviction is present, the applicant or licensee must immediately take action to comply with O.C.G.A. §7-1-1004(h).

Authority O.C.G.A. §7-1-61; §7-1-1012; §7-1-1004.

RESIDENTIAL MORTGAGE BROKERS AND LENDERS

CHAPTER 80-11-2

BOOKS AND RECORDS

80-11-2-.01	Mortgage Broker and Lender Location Requirement and Minimum Retention Period.	80-11-2-.03	Mortgage Loan Transaction Journal.
		80-11-2-.04	Mortgage Loan Files.
		80-11-2-.05	Repealed. Reserved.
80-11-2-.02	Minimum Requirements for Books and Records.		

80-11-2-.01 Mortgage Broker and Lender Location Requirement and Minimum Retention Period.

(1) Any mortgage broker or lender required to be licensed or registered under Article 13 of Chapter 1 of Title 7 of

the Official Code of Georgia Annotated ("licensee" or "registrant") must maintain required books, accounts and records at the principal place of business. Should a licensee or registrant wish to maintain such records elsewhere, it must notify the department in writing prior to said books, accounts, and records being maintained in any place other than the designated principal place of business. Such notification shall be submitted to the Department of Banking and Finance, 2990 Brandywine Road, Suite 200, Atlanta, Georgia 30341.

(2) Books, accounts and records maintained at a location other than the principal place of business shall be made available to the department within five (5) business days from the date of written request by the department and at a reasonable and convenient location acceptable to the department.

(3) "Principal place of business" means the location designated as the main office by the licensee or registrant in the initial written application for licensure or registration or as amended thereafter in writing to the department.

(4) All books, records and accounts required by Rule 80-11-2-.02(1) (b), (c), (d), (e), (f), (g), (h), (j), (m) and (n) and Rule 80-11-2-.03 must be maintained for a period of five (5) years. All books, records and accounts required by Rule 80-11-2-.02(1)(a), (i), (k) and (l) and by Rule 80-11-2-.04 must be maintained and kept complete for a period of five (5) years from the final disposition of the loan application to which the records relate (e.g. five (5) years from date application denied or cancelled or five years from date mortgage loan closed).

(5) Any books, accounts or records required to be maintained by Chapter 80-11-2 of the Rules of the Department of Banking and Finance may be maintained in their original form, on microfiche or other electronic media, provided: (i) that the records shall be made available to the department as provided in this Rule; and (ii) at the request of the department, the records shall be printed on paper for inspection or examination.

(6)(a) The penalty for maintaining books, accounts and records at a location other than the principal place of business without written notification to the department may be suspension of the license or registration, other appropriate administrative action or fine.

(b) The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the department) shall be revocation of the license or registration.

Authority Ga. L. 1993, p. 543; O.C.G.A. §7-1-61; §7-1-1012.

80-11-2-.02 Minimum Requirements for Books and Records.

(1) Any mortgage broker or lender required to be licensed or registered under Article 13 ("licensee" or "registrant") must maintain the following books, accounts and records:

(a) Copies of all disclosure documents required by Rule 80-11-1-.01;

(b) Samples of advertisements as required by Rule 80-11-1-.02;

(c) Copies of all written complaints by customers and written records of disposition;

(d) Copies of examination reports prepared by any agency, division or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the mortgage brokerage and/or lending business of the licensee or registrant and are not prohibited from being disclosed to the Department of Banking and Finance by state or federal law;

(e) Copies of reports required to be prepared and/or submitted by the licensee or registrant to any agency, division, or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the mortgage brokerage and/or lending business of the licensee or registrant and are not prohibited from being disclosed to the Department of Banking and Finance by state or federal law;

(f) Copies of all payroll records, including federal and state withholding tax forms, W-2's, and 1099 forms filed with the Internal Revenue Service by the licensee or registrant, or its agent on behalf of individuals employed by the licensee or registrant or on behalf of individuals acting as independent contractors in the mortgage brokerage and/or

lending business of the licensee or registrant;

(g) A general ledger and subsidiary records sufficient to produce, when requested by the department, an accurate monthly statement of assets and liabilities and a cumulative profit and loss statement for the current operating year.

(h) All checkbooks, bank statements, deposit slips and canceled checks which pertain to the mortgage brokerage and/or lending business of the licensee or registrant;

(i) Supporting documentation for all expenses and fees paid by the mortgage broker on behalf of the customer, which documentation indicates the amount paid and the date paid;

(j) Copies of all credit report bills received from all credit reporting agencies for the most recent five year period;

(k) Documentation to indicate a consumer had a choice of attorney, if attorneys' fees are intended to be excluded from a points and fees calculation under the Georgia Fair Lending Act;

(l) An indication of whether each loan has points and fees of 5% or more, as calculated under the Georgia Fair Lending Act, and

(m) Documentation to support the source and purpose for each receipt of monies in any form in an amount greater than \$100 and documentation to identify the recipient and purpose of each payment of monies in any form in an amount greater than \$100 by the licensee or registrant in its mortgage brokerage and/or lending business in order that the receipts may be reconciled to bank deposits and to books of the licensee or registrant.

(n) Employee file for each employee. The employee file must contain all documents related to hiring the employee, including criminal background check, date of employment, and date the Department's website was reviewed to verify eligibility for employment.

(2) Failure to maintain the books, accounts and records required under paragraph (1) above may result in suspension of the license or registration or other appropriate administrative action and will subject the licensee or registrant to fines in accordance with regulations prescribed by the department.

Authority Ga. L. 1993, p. 543; O.C.G.A. §7-1-61; §7-1-1012.

80-11-2-.03 Mortgage Loan Transaction Journal.

(1) Any person who is acting as a mortgage broker and who is required to be licensed under Article 13 of Title 7, whether as a broker or a lender ("licensee"), shall maintain a journal of mortgage loan transactions which shall include, at a minimum, the following information:

(a) Full name of proposed borrower and all co-borrowers, and the last four digits of their social security number(s);

(b) Date customer applied for the mortgage loan;

(c) Name and Nationwide Mortgage Licensing System and Registry (NMLSR) unique identifier of the loan officer responsible for the loan application whose name also appears on the application; and

(d) Disposition of the mortgage loan application and date of disposition. The journal shall indicate the result of the loan transaction. The disposition of the application shall be categorized as one of the following: loan closed, loan denied, application withdrawn, application in process or other (explanation).

(2) A complete mortgage loan transaction journal shall be maintained in the principal place of business. The journal shall be kept current. Records may be kept at a branch but the principal place of business must have a current journal updated no less frequently than every seven (7) days. The failure to initiate an entry to the journal within seven (7) business days from the date of the occurrence of the event required to be recorded in the journal shall be deemed a failure to keep the journal current.

(3) Failure to maintain the mortgage loan journal or to keep the journal current (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension or revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the department.

(4) Loan processors who are required to be licensed shall be required to keep a mortgage loan transaction journal to the extent they receive information that is required by law or rule to be in the journal. Such journal shall at a minimum include for each loan the full name of the borrower(s), the name and NMLSR unique identifier of the mortgage broker or lender for whom the processing was performed; the name and the NMLSR unique identifier of the mortgage loan originator for whom the processing was performed, and the dates the loan application was received and returned to such lender or broker. If a processor performs other duties of a broker aside from processing the loan, the processor/broker shall be responsible for keeping the same information as a broker, as provided in subsection (1) of this rule.

Authority Ga. L. 1993, p. 543; O.C.G.A. § 7-1-1012.

80-11-2-.04 Mortgage Loan Files.

(1) Any person who is acting as a mortgage broker and who is required to be licensed under O.C.G.A. Title 7, Article 13, whether as a broker or a lender ("licensee"), shall maintain a loan file for each mortgage loan transaction. The files shall be maintained in an alphabetical or numerical sequence in the principal place of business or in each branch office where mortgage loans are originated, provided that the branch office is indicated on the licensee's initial written application for licensure or written amendment thereto.

(2) Each loan file shall contain the following:

(a) Copy of the signed mortgage loan application with the Nationwide Mortgage Licensing System and Registry (NMLSR) unique identifier of the mortgage loan originator if the application form is received by the licensee;

(b) Copy of credit report if the credit report is pulled or ordered by the licensee;

(c) Copy of the appraisal and the order for such appraisal if the appraisal is ordered by the licensee;

(d) Copy of signed closing statement (HUD-1) or documentation of denial or cancellation of loan application;

(e) Copies of the disclosure documents required by Rule 80-11-1-.01; and

(f) Copies of all contracts, letters, notes and memos regarding the customer, including but not limited to lock-in agreements and commitment agreements.

(3) Failure to maintain files and required documentation (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the Department.

Authority Ga. L. 1993, p. 543.

80-11-2-.05 Repealed. Reserved.

RESIDENTIAL MORTGAGE BROKERS AND LENDERS CHAPTER 80-11-3 ADMINISTRATIVE FINES AND PENALTIES

80-11-3-.01 Administrative Fines.

(1) As authorized under Article 13 of Chapter 1 of Title 7, O.C.G.A. §7-1-1018(g) and §7-1-1005(d), the Department establishes the following fines and penalties for violation of the Georgia Residential Mortgage Act ("GRMA") or its rules. Except as otherwise indicated, these fines and penalties apply to any person who is acting as a mortgage lender or broker and who is required to be licensed or registered under O.C.G.A. Title 7, Article 13 ("licensee" or "registrant"). The Department, at its sole discretion, may waive or modify a fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.

(3) All fines collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. §7-1-1018(d).

(4) Dealing with Unlicensed Persons. Any licensee or registrant or any employee of either who purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under the GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.

(5) Relocation of Office. Any mortgage broker or mortgage lender licensee who relocates their main office or any additional office and does not notify the Department within thirty (30) days of the relocation in accordance with O.C.G.A. §7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).

(6) Unapproved Offices. In addition to the application, fee and approval requirements of O.C.G.A. §7-1-1006(f), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred dollars (\$500) per unapproved branch office operated and their license will be subject to revocation or suspension;

(7) Change in Ownership. Any person who acquires ten percent (10%) or more of the capital stock or a ten percent (10%) or more ownership of a mortgage broker or mortgage lender licensee without the prior approval of the Department in violation of O.C.G.A. §7-1-1008 shall be subject to a fine of five hundred dollars (\$500) and their license or registration will be subject to revocation or suspension;

(8) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage broker or mortgage lender prior to receiving a current license or registration required under O.C.G.A. Title 7, Article 13, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per transaction and their mortgage lender or broker application will be subject to denial or their license or registration will be subject to revocation or suspension.

(9) Hiring a Felon. Any mortgage broker or mortgage lender licensee or registrant who hires or retains an employee who is a felon as described in O.C.G.A. §7-1-1004(h), which employee has not complied with the remedies provided for in O.C.G.A. §7-1-1004(h), may be fined five thousand dollars (\$5,000) per employee found to be in violation of such provision and their license or registration will be subject to revocation or suspension.

(10) Hiring Persons Otherwise Disqualified from Conducting a Mortgage Business for violations prior to July 1, 2007. Any mortgage broker or mortgage lender licensee or registrant who employs any person against whom a final cease and desist order was issued for a violation that occurred BEFORE July 1, 2007 within the preceding three (3) years, if such order was based on a violation of O.C.G.A. § 7-1-1013 or based on the conducting of a mortgage business without a required license or exemption, or whose license was revoked within three (3) years of the date such person was hired pursuant to O.C.G.A. § 7-1-1004(o) shall be subject to a fine of five thousand dollars (\$5,000) per such employee and its license or registration will be subject to revocation or suspension;

(10.1) Hiring Persons Otherwise Disqualified from Conducting a Mortgage Business for violations on or after July 1, 2007. Any mortgage broker or mortgage lender licensee or registrant who employs any person against whom a final cease and desist order has been issued for a violation that occurred ON OR AFTER July 1, 2007 within the preceding five (5) years, if such order was based on a violation of O.C.G.A. § 7-1-1013 or based on the conducting of a mortgage business without a required license or exemption, or whose license was revoked within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-1-1004(o) shall be subject to a fine of five thousand dollars (\$5,000) per such employee and its license or registration will be subject to revocation or suspension;

(11) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to maintain their books and records according to the requirements of O.C.G.A. §7-1-1009 and Rule Chapter 80-11-2, such licensee or registrant may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records requirement listed in Rule Chapter 80-11-2.

(12) Maintenance of Loan Files. Any person who is required to be licensed under O.C.G.A. Title 7, Article 13 as a mortgage broker or any lender acting as a broker who fails to maintain a loan file for each mortgage loan transaction as required by Rule 80-11-2-.04 or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars (\$1,000) per file not maintained or not accessible, or per file not containing required documentation.

(13) Payment of \$6.50 fees. Any person who acts as the collecting agent at a closing of a mortgage loan transaction subject to the Georgia Residential Mortgage Act, is liable for payment of the \$6.50 fee to the Department, pursuant to O.C.G.A. §7-1-1011 and Rule 80-5-1-.04. Any remittance of the \$6.50 fees that is received after it is due shall subject the person to a late fee of one thousand dollars (\$1,000) for each due date missed. If the Department finds that a person has not, through negligence or otherwise, submitted \$6.50 fees within six months of the due date, it may impose an additional one thousand dollars (\$1,000) fine for failure to remit fees. Repeated failure to submit \$6.50 fees may be grounds for revocation of license.

(14) Repealed. Reserved.

(15) Reporting of Violation of Law or Discharge of Employee for Same. Any person required to be licensed or registered under O.C.G.A. Title 7, Article 13 as a mortgage lender or broker, who fails to report prohibited acts or the discharge of employees for dishonest acts, pursuant to O.C.G.A. §7-1-1007(d) shall be subject to a fine of one thousand dollars (\$1,000) per act not reported in writing to the Department within 10 days of knowledge of such act.

(16) Prohibited Acts. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Article 13 as a mortgage broker or mortgage lender who violates the provisions of O.C.G.A. §7-1-1013 shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation. Misrepresentations as defined in O.C.G.A. §7-1-1000 are subject to fine and include but are not limited to: (i) inaccurate or false identification of applicant's employer; (ii) significant discrepancy between applicant's stated income and actual income; (iii) omission of a loan to applicant, listed on loan application, which was closed through same lender or broker; (iv) false or materially overstated information regarding depository accounts; (v) false or altered credit report; and (vi) any fraudulent or unauthorized document used in the loan process. A fine of one thousand dollars (\$1,000) shall be assessed for any other violation of O.C.G.A. §7-1-1013. The Department shall upon written request provide evidence of the violation.

(17) Branch Manager Approval. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender shall be subject to a fine of five hundred dollars (\$500) for operation of a branch with an unapproved branch manager and the license will be subject to revocation or suspension. No such fine shall be levied while Department approval is pending if timely application for approval is made pursuant to Rule 80-11-1-.04.

(18) Education and Experience Requirements. Any mortgage broker licensee subject to the experience and education requirements who fails to meet such requirements shall be fined one thousand dollars (\$1,000) for operating a mortgage business without meeting licensing standards, and their license or registration will be subject to revocation or suspension.

(19) Failure to Fund. The GRMA in O.C.G.A. §7-1-1013(3) prohibits failure "to disburse funds in accordance with a written commitment or agreement to make a mortgage loan." If the Department finds, either through a

consumer complaint or otherwise, that a lender or a broker acting as a lender has failed to disburse funds in accordance with closing documents, which include legally binding executed agreements indicating a promise to pay and a creation of a security interest, a fine of five thousand dollars (\$5,000) per transaction may be imposed.

(20) Advertising. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender who violates the regulations relative to advertising contained in O.C.G.A. § 7-1-1004.3 and 7-1-1016 or the advertising requirements of department Rule 80-11-1-.02 shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(21) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars (\$5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

(22) Repealed. Reserved.

(23) Background Checks. Any licensee who fails to perform background checks on covered employees in accordance with the provisions of O.C.G.A. §7-1-1004(h), (i), and (k) shall be subject to a fine of one thousand dollars (\$1,000) for each employee on whom the required background check was not conducted.

(24) Change in Officers. Any licensee who fails to notify the Department of a change in principals of the company without the proper approval of the Department in violation of O.C.G.A. §7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).

(25) Georgia Fair Lending Act. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Article 13 as a mortgage broker or mortgage lender who violates any provision of Chapter 6A of Article 13, the Georgia Fair Lending Act, shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and their license will be subject to revocation or suspension.

(26) Consumer Complaints. Any licensee or registrant who fails to respond to a consumer complaint or fails to respond to the Department within the time periods specified in the Department's correspondence to such person shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond to consumer complaints may result in revocation of license.

(27) Failure to Perform Timely Background Checks. If the ten (10) day requirement for submission of background information to the proper law enforcement authorities is not met, the employer shall be subject to a one thousand dollars (\$1,000) fine.

Authority O.C.G.A. §7-1-61; §7-1-1012.

RESIDENTIAL MORTGAGE BROKERS AND LENDERS

CHAPTER 80-11-4

LICENSING

80-11-4-.01	Initial Experience and Education Requirements; Continuing Education.	80-11-4-.06	Wholly Owned Subsidiaries of Lenders; Notification Statement; When Registration Required.
80-11-4-.02	Approved Schools	80-11-4-.07	Loan Processors as Brokers.
80-11-4-.03	Licensing Requirements; Registrants; Exemptions; Term for Bond.	80-11-4-.08	Restrictions on Employment and Licensing.
80-11-4-.04	Temporary License.	80-11-4-.09	Challenges to Information Entered into the Nationwide Mortgage Licensing System and Registry.
80-11-4-.05	Knowing Purchase, Sale or Transfer of Loan or Loan Application from Unlicensed Entity.		

80-11-4-.01 Initial Experience and Education Requirements; Continuing Education.

(1) Subject to the exceptions below, any mortgage broker license issued, reinstated or renewed after July 1, 2000 to an applicant, shall be subject to the requirements for experience or education. Such requirements shall apply to natural person applicants, or if to other entities or persons, to the operating manager who administers the operations in this state (collectively, "applicant").

(2) Applicants for a new license or for reinstatement of a previous license shall elect and meet either the experience or the education requirements before a license will be issued or reinstated.

(3) Exception for certain licensees for initial education or experience requirements.

(a) Any mortgage broker license issued to an applicant prior to July 1, 2000, which license remains continuously valid without interruption until renewed on July 1, 2001, shall be subject to either one year of verifiable experience or applicant must meet the education requirements in this rule.

(b) Applicants for renewal eligible for this exception, in the case of a natural person, need only state on the application that the license was issued on or before July 1, 2000 and has remained continuously valid without interruption since July 1, 2000. In the case of other entities or persons, applicant must demonstrate that the current operating manager has completed either one year of experience, verified according to this rule, or the education requirements.

(4) Experience Requirements:

(a) Applicant must complete two (2) years of verifiable experience working full time for a licensed mortgage broker or lender.

(b) Experience shall consist of directly soliciting, processing, placing and negotiating mortgage loans for others.

(c) The following information must be submitted at the time of application or renewal by an applicant who wishes to qualify by using experience:

1. Letter on letterhead from previous or current employer certifying completion of two (2) years work experience directly soliciting, processing, placing, and negotiating mortgage loans for others. Telephone number of employer must be provided;

2. Copy of IRS form W-2 for the tax years covering the experience requirement;

3. Completed and signed IRS form 4506 which enables the Department to verify the W-2, and;

4. Other documents or information required by the Department necessary to verify completion of the experience requirement. Experience requirement may be verified by the Department directly with the employer and tax authorities.

(d) If applicant's experience is received from an employer not required to be a Georgia Residential Mortgage Act licensee, such applicant must also complete four (4) hours of education provided by an approved school in Georgia, which education specifically covers the Georgia Residential Mortgage Act and rules and regulations of the Department.

(5) Initial Education Requirements:

(a) An applicant for a mortgage broker's license must complete a minimum of forty (40) course hours of prescribed courses from a Department or Nationwide Mortgage Licensing System and Registry (NMLSR) approved provider of mortgage training courses. A mortgage broker that is also required to have a mortgage loan originator's license may apply the twenty (20) hours of required mortgage loan originator pre-licensing education towards its mortgage broker license.

(b) Course work taken pursuant to this rule shall pertain to basic technical mortgage terms, elements of the

mortgage brokering process, federal law, applications and required documentation, and shall include a minimum of four (4) course hours on Georgia law, rules and regulations; fraud detection; and the prevention of fraud in the mortgage industry.

(c) Applicant must submit proof of completion of the required education courses in the form of a certificate of completion issued by a Department approved provider of mortgage education courses. This requirement may be verified by the Department directly with the provider. The Department will make a list of such providers available on its website.

(6) Experience requirements must have been completed within the three (3) calendar year period immediately prior to the date of approval of the license. Initial education requirements must have been completed within the one (1) calendar year period prior to the date of approval.

(7) Continuing Education. Applicants for renewal of a broker's license who are exempt from the mortgage loan originator's license requirements shall meet the continuing education requirements set forth in subparts (a) through (i) of this rule. Mortgage broker/processor licensees who are also required to maintain a mortgage loan originator's license must meet the continuing education requirements set forth in Rule 80-11-5-04(1)(b).

(a) Applicant must complete on an annual basis and by October 31 each year a minimum of eight (8) hours of continuing education dealing with elements of the mortgage brokering process, federal law, federal rules and regulations, Georgia law, Georgia rules and regulations, applications and required documentation, fraud, ethics or other topics pertinent to the operation of a mortgage brokering business in Georgia. At least one (1) hour shall be concentrated on fraud detection and prevention. A mortgage broker that is also a mortgage loan originator may apply the eight (8) hours of annual continuing education required by O.C.G.A. § 7-1-1004(g) to the continuing education requirement contained in this rule.

(b) Except as provided in this rule, continuing education must be completed with a Department or NMLSR approved provider of mortgage education classes and be timely reported to the NMLSR pursuant to NMLSR requirements.

(c) Seminars, courses or classes sponsored and approved by mortgage-related state and federal regulatory agencies, a NMLSR approved provider, the National Association of Mortgage Brokers (NAMB), state and federal regulated lenders and their affiliates or professional associations, all of which must be recognized by the Department as proper providers of education requirements ("approved providers"). Requirements may be satisfied at monthly association meetings, conventions, seminars or through electronic means provided the subject meets the requirements of this Rule. For purposes of continuing education, instructors and speakers at seminars, conventions or classes sponsored by approved providers will not be required to seek Department approval as approved providers of mortgage education classes. Education providers shall assign a certificate number to each attendee of a seminar, course or class. In state providers must keep lists of attendees for at least two (2) years.

(d) Each licensed broker must maintain a listing of the courses completed or seminars attended, the date attended, the name of the instructor or speaker, the name of the sponsoring association, the course agenda and the credit hours earned for each course or seminar. Credit hours may not be earned or approved in less than one (1) hour increments. Such information may be requested as part of the renewal application.

(e) The Department will not be required to verify that each applicant has completed the required Department continuing education hours prior to issuance of a renewal license. However, the Department may at any time and at its discretion select any number of renewal applications to verify that the continuing education requirements have been met. Verification of continuing education hours may be performed as a part of the examination process. Licensees must maintain documentation for five (5) years that verifies the continuing education hours attained. The Department may request proof of attendance or verification from the applicant, sponsor, instructor or speaker.

(f) The Department may at its discretion accept continuing education hours completed between November 1 and December 31 of each year as part of the license renewal requirement. However, licensees/applicants that fail to attain at least eight (8) continuing education hours by October 31 of each year will be subject to a one thousand dollars (\$1,000) fine.

(g) Upon submitting an application to renew a license, failure to complete eight (8) continuing education hours by October 31 together with failure to complete the hours by December 31 with payment of the one thousand dollars

(\$1,000) fine shall result in inability to renew the license, or other administrative action.

(h) For purposes of continuing education requirements “applicant” shall mean an individual owner of the licensee, or a person designated and employed by the licensee as the primary supervisor or manager of the licensee’s mortgage business. The intent of the rule is that the continuing education for a mortgage broker’s license must be obtained by a person who directs the affairs of the mortgage business.

(i) Newly licensed brokers who obtain their license between January 1 and October 31 of any year will be required to have eight (8) hours of continuing education credits in order to qualify to renew their license for the next license renewal period. Newly licensed brokers who obtain their license between November 1 and December 31 of any year will be required to complete continuing education credits prior to license renewal. Provisions in subsection (f) and (g) of this rule also apply to such newly licensed brokers.

Authority O.C.G.A. § 7-1-1012; § 7-1-1004.

80-11-4.02 Approved Schools.

(1) A school or provider (“school”) that wishes to be approved by the department to offer courses eligible to satisfy the mortgage broker education requirement shall apply to the department for approval. Only approved schools may provide such courses.

(2) An approved school must offer credit hours in courses directly related to the mortgage broker process. A list of the required areas of coverage necessary to satisfy the education requirement will be published by the department and may be revised from time to time as the need demands.

(3) An approved school must issue a certificate of completion to each person attending, and must have standards for attendance and test taking and a reasonable method to determine attendance. The school must provide to the department a list of all persons successfully completing the required credit hours.

(4) All approved schools must have qualified instructors, meeting standards established by O.C.G.A. § 7-1-1003.7 and the department, which will be available to the school upon request.

(5) An approved school’s official must be available to the department to contact in order to verify completion of education.

(6) An approved school must allow access to Department personnel in order for the Department to perform a review and assessment of the curriculum, books and records, and instruction offered by the school or provider to licensees and/or applicants. Failure to allow such access will result in removal of the school as an approved educational provider.

Authority O.C.G.A. § 7-1-1012; §7-1-1003.7; § 7-1-1004.

80-11-4.03 Licensing requirements; registrants; exemptions; term for bond.

(1) The Department will take appropriate action against all persons found to be improperly engaging in mortgage brokerage or lending activities without a license or valid exemption. In accordance with O.C.G.A. § 7-1-1018(a), if proper evidence is provided to the Department within thirty (30) days of the date the Order is issued that shows the person had the proper license or was acting pursuant to a valid exemption at the time noted in the Order, the Order shall be rescinded by the Department.

(2) The exemption from licensing provided pursuant to O.C.G.A. §7-1-1001(14) to an employee of a licensee or exemptee applies only to natural persons who meet all of the following criteria:

(a) An employee must be employed by just one licensee or exemptee and work exclusively for that person;

(b) An employee may not solicit, process, or place loans for anyone else while claiming the exemption;

(c) An employee's procedures and activities must be supervised by the licensee or exemptee on a daily basis, and the licensee or exemptee is responsible for the actions of such employees. This requirement is intended to make it clear that employers control and are accountable for the actions of their employees; and

(d) An employee may not be paid or compensated for performance of mortgage activity as an independent contractor or on a 1099 basis, except as specifically provided for in paragraph (3) of this rule.

(3) The exemption from licensing provided pursuant to O.C.G.A. §7-1-1001(17) only applies to a natural person acting in the capacity as an independent contractor working under an exclusive written contract for a licensee that is a wholly owned subsidiary of a financial holding company or bank holding company, savings bank holding company, or thrift holding company, under conditions and limitations as set forth in O.C.G.A. §7-1-1001(17) and applies only if all of the following criteria are met:

(a) The independent contractor may only work in the capacity of a mortgage broker and may only broker loans to the licensed subsidiary or its affiliates;

(b) The licensee must provide annually, or more often if required by the Department, a list of each of the independent contractors brokering loans for the licensee under this exemption. This list must be submitted electronically in a form prescribed by the Department. The licensee must certify at the time of submission that each independent contractor brokering loans for them under this exemption are working under a current Undertaking of Accountability, in a form prescribed by the Department;

(c) The surety bond required pursuant to O.C.G.A. §7-1-1001(17) must be in full force and effect at all times, unless or until such time as the licensee is no longer licensed. In the event that the licensee is no longer licensed, all independent contractors brokering loans for the licensee as independent contractors under this exemption must cease all mortgage brokerage activity immediately upon termination of said license. In the event that the required surety bond coverage falls below the amounts required by O.C.G.A. §7-1-1001(17), the licensee must immediately provide coverage sufficient to meet the requirements as set forth therein, or the license will be subject to revocation or suspension. Adequacy of bond coverage will be determined annually by the Department based on the list of independent contractors as provided by the licensee in Rule 80-11-4-.03(3)(b).

(4) Registrants shall complete all information as indicated on the Department's application. Registrants must submit financial information as provided in O.C.G.A. § 7-1-1003.2 and §7-1-1010, are subject to books and records requirements as provided in O.C.G.A. §7-1-1009, and must submit an annual fee to the Department. Registrants must provide updated consumer contact information to the Department, and are responsible for resolving consumer complaints satisfactorily and in conformity with the Department's guidelines and timeframes. Fines will apply for failure to comply with any Georgia mortgage laws or rules.

(5) In addition to the requirements contained in O.C.G.A. §7-1-1003.2 for a bond, the bond requirement for a lender or broker license shall have a stated term of one year or more, and shall expire a minimum of twelve (12) months from the date of issuance, or such longer period as needed to reflect the term of the bond. The bond requirement is continuous in nature. A corporate surety or licensee that does not intend to renew a bond for a subsequent term shall notify the Department of such cancellation pursuant to O.C.G.A. § 7-1-1007(c) no later than thirty (30) days prior to the expiration or cancellation date of the bond. Surety bonds provided to the Department are deemed to be records of the Department and will not be returned to licensees or to the entities by which they were issued.

Authority O.C.G.A. §7-1-61; § 7-1-1003.2; §7-1-1012.

80-11-4-.04 Temporary License.

In certain instances, the department may grant to an applicant a temporary license for one or more months, to be determined in the discretion of the department. The license shall clearly state on its face the term of the license. The cost shall be the same as that for a permanent license. If a permanent license for the same year is subsequently issued, no additional license fee will result.

Authority O.C.G.A. § 7-1-1012.

80-11-4.05 Knowing Purchase, Sale or Transfer of Loan or Loan Application from Unlicensed Entity.

(1) It is prohibited for any person to knowingly purchase, sell or transfer a mortgage loan or loan application to or from an unlicensed mortgage loan originator, mortgage lender or broker, unless that entity is exempt from licensing. It is expected that all persons who purchase loans use reasonable diligence to determine whether the entities they do business with are licensed. To that end, the department has provided various means to determine whether an entity is licensed.

(a) A list of current licensees is provided at the department's Internet website. It is updated nightly with the exception of weekends and holidays.

(b) Also at the website is a list of all suspended or revoked licenses. It is updated weekly.

(c) The department responds to telephone inquiries from 8:00 a.m. to 4:30 p.m. each weekday (except holidays) and provides current information to callers. Written inquiries will also be received and responded to.

(2) Obtaining a copy of an entity's license shall not be sufficient evidence of a current license since suspension and revocation proceedings occur throughout the year.

(3) Failure to exercise reasonable diligence to determine whether an entity is licensed may result in a fine, a suspension or a revocation.

Authority O.C.G.A. § 7-1-1012; § 7-1-1002.

80-11-4.06 Wholly Owned Subsidiaries of Lenders; Notification Statement; When Registration Required.

Repealed and Reserved.

80-11-4.07 Loan Processors as Brokers.

(1) Mortgage brokers include persons who directly or indirectly solicit, process, place or negotiate or offer mortgage loans for others. A loan processor is a mortgage broker and will require a mortgage broker license to process loans on Georgia real property that meet the definition of "mortgage loan" in Code Section 7-1-1001(13).

(2) A loan processor employed as a W-2 employee of a Georgia Residential Mortgage Act licensee who meets all of the qualifications for exemption under §7-1-1001 does not require a license. A loan processor who works as an independent contractor or who owns or controls a company that does loan processing is required to have a license.

(3) Generally, to process a loan means to collect and/or verify from a borrower or other person, information that is necessary to underwrite or to submit for underwriting, a mortgage loan application package. Activities including but not limited to the following may qualify as loan processing:

(a) Receiving, reviewing, and processing real estate loan applications.

(b) Ordering, obtaining and evaluating credit reports, real estate appraisals, flood certifications, location surveys, termite inspections, well/septic inspections, surveys, etc.

(c) Ordering, obtaining, and evaluating real property ownership information, including a title insurance policy insuring lender's valid lien position. Title insurance companies that handle only title insurance for a particular loan are not loan processors.

(d) Communicating with applicants as necessary to obtain additional information, or counseling or offering advice regarding loan rates, options, payment plans, or similar advice.

- (e) Obtaining verifications of income, employment, address, etc. as requested by the broker or lender.
 - (f) Performing escrow account analyses; taking steps required to establish escrow accounts.
 - (g) Providing certain real estate loan disclosures on behalf of lender.
 - (h) Compiling and transmitting completed real estate loan application packages to lenders.
 - (i) Maintaining, collecting, and/or reporting any data necessary to comply with applicable statutory and regulatory requirements.
- (4) Persons who are otherwise exempt from licensing in Code Section 7-1-1001, so long as they provide only the services contemplated in their exemption, will not be considered loan processors.

Authority O.C.G.A. §7-1-61; §7-1-1012.

80-11-4.08 Restrictions on Employment and Licensing.

(1) No person who has been an officer, director, partner or ultimate equitable owner of a licensee that has had its license revoked, denied or suspended, may perform any of those roles at another licensee or registrant for three years from the date of the final order.

(2) Felony convictions; restrictions on the employee and the licensee:

(a) Code Section 7-1-1004 provides that no person employed by or directing the affairs of any licensee may be a convicted felon. Licensees are obligated by that statute to do their own background checks on covered employees. Licensees, however, are responsible to see that no convicted felons are employed or direct the affairs of their business. The department administers fingerprint checks on officers and directors and others where needed.

(b) The law in Code Section 7-1-1004 provides for remedies to “cure” a prior felony. They include a pardon and a restoration of rights. These remedies must be completed and in place prior to employment. Hiring or continuing to employ a felon subjects a licensee to revocation of its license.

(c) If a licensee discovers that an employee or director/officer is a felon who has not satisfactorily “cured” the conviction, the violation of Code Section 7-1-1004 must be immediately corrected or the license will be subject to revocation. Such individuals with felony convictions are ineligible for an employee exemption and are in violation of Code Section 7-1-1019, also a felony, and Code Sections 7-1-1019, 7-1-1004 and 7-1-1002. The licensee employer is in violation of Code Sections 7-1-1004 and 7-1-1002.

(d) A cease and desist order to a person for failure to meet the employee exemption due to a violation of the felony provisions of Code Section 7-1-1004 shall become final in 30 days without a hearing. Code Section 7-1-1018(a). Such a person must show within those 30 days, by certified court documents that the record is erroneous, or, that the “cure” provisions in Code Section 7-1-1004 were completed prior to employment, in order to stop the order from becoming final. In the event such proof is provided, the order will be rescinded.

(e) Cease and desist orders may be issued against persons required to be licensees or registrants or against employees of those parties. All of the provisions of Code Section 7-1-1018, including injunction, apply to actions against all such persons.

3) The Department may regularly publish on its website, or through other means, information identifying persons and natural persons to whom final administrative actions have been issued.

Authority O.C.G.A. §7-1-61; §7-1-1004; §7-1-1012.

80-11-4.09 Challenges to Information Entered into the Nationwide Mortgage Licensing System and Registry.

A mortgage broker or lender licensee or registrant may challenge information entered by the Department into the Nationwide Mortgage Licensing System and Registry. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the licensee or registrant with a written reply that shall be the agency's final decision in response thereto.

Authority O.C.G.A. § 7-1-1004.2.

MORTGAGE LOAN ORIGINATOR LICENSURE AND OTHER REQUIREMENTS

CHAPTER 80-11-5

80-11-5-.01	Mortgage Loan Originator Licensure Requirements.	80-11-5-.05	Administrative Fines.
80-11-5-.02	Books and Records Requirements; Examination	80-11-5-.06	Administrative Actions; Nationwide Mortgage Licensing System and Registry Information Challenges.
80-11-5-.03	Licensed Location.		
80-11-5-.04	Renewals.		

80-11-5-.01 Mortgage Loan Originator Licensure Requirements.

(1) Unless exempt from licensure pursuant to O.C.G.A. § 7-1-1001, a mortgage loan originator may not engage in the business of mortgage loan origination without obtaining and maintaining a current Georgia mortgage loan originator's license issued through the National Mortgage Licensing System and Registry (NMLSR).

(2)(a) Unless a mortgage loan originator is employed by an exempt entity, no mortgage loan originator may work in the state of Georgia without having proper sponsorship on record with the NMLSR by a licensed or registered Georgia mortgage broker or mortgage lender. For purposes of this Rule Chapter, "sponsorship" means the authorization for a mortgage loan originator to conduct business as an employee under and on behalf of a specific mortgage broker or mortgage lender's license or registration. Sponsorship must be initiated and maintained by the licensed or registered mortgage broker or mortgage lender employing a mortgage loan originator.

(b) Sponsorship must be accepted by the Department. Once established, a sponsorship can be removed by either the employing licensee or registrant or by the mortgage loan originator. It shall be the responsibility of every licensee or registrant to ensure that the status of a mortgage loan originator is correctly reflected at all times on the NMLSR.

(3) A mortgage loan originator shall have coverage under the surety bond of his or her licensed or registered mortgage broker or mortgage lender employer, or under a surety bond maintained by the loan originator.

(a) A surety bond covering the mortgage loan originator shall have a stated term of one year or more and shall expire a minimum of twelve (12) months from the date of issuance. The bond requirement is continuous in nature.

(b) A mortgage loan originator operating under the bond of his or her mortgage licensee or registrant employer must be covered continuously under his or her employer's bond under his or her name of record under the NMLRS and ensure such coverage is in effect during the time that the mortgage loan originator is engaged in making Georgia mortgage loans for that employer.

(c) A mortgage loan originator required to obtain his or her own surety bond coverage shall obtain a bond in the amount of at least \$10,000 for mortgage loan originators that originate between \$1 dollar and \$10 million dollars annually, or a bond in the amount of at least \$15,000 for mortgage loan originators that originate greater than \$10 million dollars annually. The bond obtained by a mortgage loan originator must be provided to the Department in a form acceptable to the agency. All other provisions concerning surety bond coverage maintained by a mortgage loan originator's employer must be met by mortgage loan originators maintaining their own coverage.

(d) Surety bonds provided to the Department are deemed to be records of the Department and will not be released or returned to licensees or to the entities by which they were issued.

(4) Mortgage loan originator bond coverage shall not be canceled by either the employing licensed or registered mortgage broker or mortgage lender, the mortgage loan originator licensee or the corporate surety except upon notice to the Department by registered or certified mail or statutory overnight delivery with return receipt requested. The cancellation shall not be effective less than thirty (30) days after receipt by the Department of such notice.

Authority O.C.G.A. § 7-1-1001.1; § 7-1-1002; § 7-1-1003.2; and § 7-1-1004.

80-11-5-.02 Books and Records Requirements; Examinations

(1) The Department may examine the mortgage related books and records of any licensed mortgage loan originator as specified in O.C.G.A. § 7-1-1009.

(2) Any person who is acting as a mortgage loan originator and is required to be licensed shall maintain a journal of mortgage loan transactions, which shall include, at a minimum, the following information:

(a) Full name of proposed borrower and all co-borrowers;

(b) Date the mortgage loan originator took application for the mortgage loan;

(c) Name and the unique identifier or Federal Regulatory Number of the mortgage licensee or registrant sponsoring the loan originator;

(d) Disposition of the mortgage loan application and date of disposition. The journal shall indicate the result of the loan transaction. The disposition of the application shall be categorized as one of the following: loan closed, loan denied, application withdrawn, application in process or other (explanation to be provided);

(e) The journal shall be kept current, updated no less frequently than every seven (7) days. The failure to initiate an entry to the journal within seven (7) business days from the date of the occurrence of the event required to be recorded in the journal shall be deemed a failure to keep the journal current.

(f) Failure to maintain the mortgage loan journal or to keep the journal current (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension or revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the department.

(3) All mortgage loan originators who are required to be licensed under Article 13 of Title 7 of the O.C.G.A. and maintain their own surety bond coverage must keep copies of their bonds and also provide copies to their sponsoring/employing mortgage brokers or mortgage lenders.

(4) All books and records and accounts required by this rule shall be maintained by a mortgage loan originator for a period of five (5) years.

Authority O.C.G.A. § 7-1-1009.

80-11-5-.03 Licensed Location.

All licensed mortgage loan originators must maintain an office of record with the Department. If the mortgage loan originator is not domiciled in Georgia, then the main office location of the sponsoring/employing licensee or registrant shall serve as the official employment address of the loan originator. Those licensed mortgage loan originators domiciled within Georgia must reflect the office from which they are supervised by their employer, either the main office or an approved branch location.

Authority O.C.G.A. § 7-1-1003.

80-11-5-.04 Renewals.

(1) Mortgage loan originator licenses shall expire on December 31st of each calendar year. A mortgage loan originator must meet the following requirements in order to have his or her license renewed:

(a) A mortgage loan originator must continue to meet the minimum standards for license issuance.

(b) A loan originator must satisfy the continuing education requirements of O.C.G.A. § 7-1-1004(g). The applicant must obtain on an annual basis eight (8) hours of approved continuing education in mortgage courses from an NMLSR approved provider. Of these eight (8) hours, seven (7) hours must be obtained in course work addressing the subjects identified in O.C.G.A. § 7-1-1004 (g)(1), and at least one (1) hour of continuing education must be obtained in coursework addressing the Georgia Residential Mortgage Act, specifically any changes made to the statute and its corresponding regulations.

(c) Courses taken to meet the approved continuing education requirements of the NMLSR for any state shall be accepted as credit towards continuing education requirements in Georgia, with the exception that one (1) hour of the required courses must cover laws and regulations related to Georgia mortgage licensure, not that of another state.

(d) Continuing education credit hours must be obtained annually between November 1 and October 31 prior to the next November 1 license renewal date. The Department, in its discretion, may accept continuing education hours completed between November 1 and December 31 of a year as part of the license renewal requirement for the then current license renewal. Licensees/applicants that fail to obtain by October 31 of a year at least eight (8) continuing education hours will be subject to a one thousand dollar (\$1,000) fine.

(e) Upon submitting an application to renew a license, failure to document to the Department's satisfaction proof of completion of eight (8) continuing education hours by October 31 along with the failure to obtain and document proof of completion of these hours by December 31 with payment of the one thousand dollar (\$1,000) fine shall result in the expiration of the mortgage loan originator's license.

(f) Continuing education credits are only valid in the year in which the courses are taken. Credits earned during November 1 through December 31 will be excluded from consideration for continuing education credit hours earned for the subsequent renewal period. When continuing education hours are obtained by a mortgage loan originator, only credit hours obtained from January 1 to October 31 shall be considered for purposes of meeting the eight (8) hours of continuing education required in the subsequent renewal period.

(2) A mortgage loan originator licensed on or after January 1, 2010, whose license has not been maintained for a period of up to five (5) years shall provide proof of completion of the continuing education requirements for the last year in which the license was held in order to reinstate it. Should reinstatement of an expired license be sought for a license that has not been maintained for a period of five (5) years or more, such reinstatement application will require that the applicant again meet the testing requirements set forth in O.C.G.A. § 7-1-1004 (e) and (f). If a person has worked as a registered loan originator at any time during the lapsed license period, the period of time the registered mortgage loan officer was employed in this capacity shall not count toward the calculation of the time period for the continuing education and testing requirements of this paragraph.

Authority O.C.G.A. § 7-1-1004(e)(4); § 7-1-1004.2; § 7-1-1005.

80-11-5-.05 Administrative Fines.

(1) The Department establishes the following fines and penalties for violation by mortgage loan originators of the Georgia Residential Mortgage Act or its rules. The Department, in its sole discretion, may waive or modify any fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a

license or registration, or any other activity requiring Departmental approval.

(3) All fines collected by the Department shall be paid into the state treasury to the credit of the general fund.

(4) The following fines shall be assessed for violations of the Georgia Residential Mortgage Act and Department rules:

(a) Dealing with Unlicensed Persons. A mortgage loan originator that purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and his or her license shall be subject to suspension or revocation.

(b) Unapproved Location. A mortgage loan originator that operates from a location in Georgia other than a required approved location on record with the Department shall be subject to a fine of five hundred dollars (\$500) per unapproved location operated and his or her license may be subject to revocation or suspension.

(c) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage loan originator prior to receiving a current license or registration required under GRMA, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the mortgage loan originator's application will be subject to denial or his or her license or registration will be subject to revocation or suspension.

(d) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a mortgage loan originator licensee or registrant has failed to maintain his or her books and records according to the requirements of Rule 80-11-5-.04, such licensee or registrant may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records found to occur.

(e) Prohibited Acts. Any person who is required to be licensed under O.C.G.A. Title 7, Article 13 as a mortgage loan originator who violates the provisions of O.C.G.A. §7-1-1013 shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation.

(f) Education and Experience Requirements. A mortgage loan originator subject to the experience and education requirements who fails to meet such requirements shall be fined one thousand dollars (\$1,000) for conducting mortgage business without meeting licensing standards, and his or her license will be subject to revocation or suspension.

(g) Advertising. A mortgage loan originator that is required to be licensed who violates the regulations relative to advertising contained in O.C.G.A. §§ 7-1-1004.3 and 7-1-1016 or the advertising requirements of the Department shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(h) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars (\$5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

Authority O.C.G.A. § 7-1-1018(g).

80-11-5-.06 Administrative Actions; Nationwide Mortgage Licensing System and Registry Information Challenges.

(1) Final administrative actions taken against mortgage loan originators shall be considered public information and may be disseminated through the Nationwide Mortgage Licensing System and Registry (NMLSR) or by the Department.

(2) A mortgage loan originator may challenge information entered by the Department into the NMLSR. All

challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the mortgage loan originator with a written reply that shall be the agency's final decision in response thereto.

Authority O.C.G.A. § 7-1-61; § 7-1-1003.6; § 7-1-1004.2; § 7-1-1012.